IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 4558 of 2007(P)

PETITIONER:

M.SHANAVAS, RIYAS MANZIL,
KUTTIKATTOOR, KOZHIKODE.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:
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1. THE REGIONAL TRANSPORT AUTHORITY,
KOZHIKODE, REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOZHIKODE.

BY GOVERNMENT PLEADER SMT. N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 4558/2007 P

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE APPLICATION FOR REGULAR PERMIT SUBMITTED ON 12/9/2005 BY THE PETITIONER BEFORE THE AUTHORITY.

EXT.P2. COPY OF THE ORDER NO. G1/16044/05/D DT. 24/10/2005 BY THE RTA.

EXT.P3. COPY OF THE JUDGMENT DT. 26/5/2006 IN MVAA NO. 223/2006 BY THE STAT.

EXT.P4. COPY OF THE ORDER NO. G1/16044/06/D DT. 15/7/2006 BY THE RTA.

True copy

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.4558 OF 2007-P

Judgment

The petitioner applied for a regular permit on the route Keezhuparamba-Kozhikode. The said application was rejected by the RTA, Kozhikode by Ext.P2 decision on the ground that the route is well served and the petitioner has no ready vehicle. The petitioner appealed. The appellate authority found that both the grounds are untenable and therefore, by Ext.P3 Judgment, ordered to grant the permit subject to settlement of timings. The RTA, which met on 15.07.2006, perused the Judgment of the STAT and by Ext.P4 proceedings, directed the Secretary to settle the time schedule in accordance with the circular issued by the State Transport Authority on 02.01.2006. The Secretary, RTA was also directed to report whether the route in question violates the modified supplementation scheme published by the Government on 09.05.2006. Feeling aggrieved by the stand taken by the RTA in Ext.P4, this Writ Petition is filed. The petitioner prays for granting the permit as directed by the STAT in Ext.P3 Judgment. The learned Government Pleader upon instruction submitted that the matter will be considered in the next meeting of the RTA.

2. I agree with the writ petitioner that the stand of the RTA taken in Ext.P4 is untenable. The relevant clause of the circular relied on by the RTA, which mandates settling of the time schedule before the grant of the permit has been quashed by this Court. Further, the violation of supplementation scheme was not a ground taken by the RTA while passing Ext.P2 order. The petitioner points out

that there is no supplementation scheme, covering Kozhikode-Mavoor route. But, if there is any Nationalisation scheme, the same will stand in the way of granting the permit. Even if such a point is not taken in Ext.P1, the RTA will be free to consider the same. But the petitioner shall be alerted and he shall be given an opportunity of being heard before relying on any ground regarding violation of Nationalisation scheme, while considering his application for permit. The 1st respondent is directed to implement Ext.P3 judgment of the STAT in the light of the observations made hereinabove as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

08.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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